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November 3, 2005

Sharla Dillon, Dockets  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-5015  
**HAND DELIVERY**

Re: Enforcement of Interconnection Agreement between BellSouth  
Telecommunications, Inc. and NuVox Communications, Inc.,  
Docket No. 04-00133

Dear Sharla:

Enclosed for filing in the above-referenced docket please find the original and 13 copies of a letter in response to the filing made by BellSouth in this docket on November 2, 2005. I am also enclosing an extra copy of the letter. Please date stamp it and return it to the courier making this filing. Thank you for your assistance.

Sincerely,

*H. LaDon Baltimore /dcg*

H. LaDon Baltimore

LDB/dcg

cc: Guy Hicks, Esq.

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Honorable Ron Jones, Chairman  
Tennessee Regulatory Authority  
ATTN: Sharla Dillon, Dockets  
460 James Robertson Parkway  
Nashville, TN 37243-5015

Re: Enforcement of Interconnection Agreement between BellSouth  
Telecommunications, Inc. and NuVox Communications, Inc.,  
Docket No. 04-00133

Dear Chairman Jones:

Yesterday BellSouth filed with the Authority a copy of a decision issued by the U.S. District Court for the Eastern District of Kentucky, Civil Action No. 3:05-41-JMH ("EDKY Order"). In its cover letter, BellSouth states "[t]he District Court also rejected DeltaCom's other arguments." The reference to DeltaCom must have been an error, given that DeltaCom did not participate in the appeal or in the proceeding below at the Kentucky Commission.

Though the Court denied NuVox's complaint for declaratory relief regarding the sufficiency of the evidence relied upon by the Kentucky Commission, the Court did not reject all of NuVox's "other arguments." The Court rejected only those arguments addressed in its order. The District Court upheld the Kentucky Commission's decision finding that BellSouth sufficiently fulfilled the applicable audit prerequisites (concern and independent auditor). EDKY Order at 7. The Kentucky Commission's order denied BellSouth's request to audit more than 150 converted EEL circuits in Kentucky and authorized an audit of 15 circuits for which BellSouth alleged the concern that it provided local services to the same customers served by those NuVox EELs.<sup>1</sup> The Kentucky

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<sup>1</sup> BellSouth has made the same allegation with respect to 44 converted EEL circuits in Tennessee. In re: Enforcement of Interconnection Agreement between BellSouth Telecommunications, Inc. and NuVox Communications, Inc., Complaint of BellSouth Telecommunications, Inc. to Enforce Interconnection Agreement and Request for Expedited Proceedings, ¶ 24 (filed May 4, 2005).

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Tennessee Regulatory Authority  
November 3, 2005  
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Commission also found that BellSouth had met the independent auditor requirement.<sup>2</sup>

In affirming the Kentucky Commission's decision, the District Court upheld an order that found BellSouth's audit rights are limited by the "concern" and "independent auditor" prerequisites established by the FCC and incorporated into the parties' interconnection agreement.<sup>3</sup> In so doing, the District Court did not embrace arguments made by BellSouth to the District Court (also made here in Tennessee) that those audit prerequisites from the *Supplemental Order Clarification* were not incorporated into the Agreement.

A copy of this letter has been provided to counsel of record for BellSouth.

Respectfully submitted,

  
H. LaDon Baltimore

LDB/dcg

### Certificate of Service

The undersigned hereby certifies that on this the 3rd day of November, 2005, a true and correct copy of the foregoing has been forwarded via first class U. S. Mail, hand delivery, overnight delivery, or facsimile transmission to the following.

Guy Hicks, Esq.  
BellSouth Telecommunications, Inc.  
333 Commerce Street, Suite 2101  
Nashville, TN 37201

  
H. LaDon Baltimore

<sup>2</sup> NuVox has no present objection to the independence of KPMG, the auditor BellSouth has selected to replace ACA, the original auditor retained by BellSouth (which the Georgia Commission declined to find suitable)

<sup>3</sup> The Kentucky Commission's decision is in accord with the Georgia Commission's earlier decision which found that the parties' interconnection agreement incorporates the concern and independent auditor requirements from the FCC's Supplemental Order Clarification.